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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,676	10/16/2001	Eija Marjut Pirhonen	01942-00003	6631

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John P. Iwanicki  
BANNER & WITCOFF, LTD.  
28th Floor  
28 State Street  
Boston, MA 02109

EXAMINER

THOMPSON, CAMIE S

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/981,676

Applicant(s)

PIRHONEN, EIJA MARJUT

Examiner

Camie S. Thompson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-14, 21, 22 and 24-28 is/are allowed.
- 6) ☒ Claim(s) 1, 15, 16, 19, 20, 29, 30 and 34-36 is/are rejected.
- 7) ☒ Claim(s) 2-5, 17, 18, 23, 31, 32 and 37 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Applicant's amendment and accompanying remarks filed February 1, 2005 have been acknowledged.
2. Examiner acknowledges amended claims 1, 6, 13-14 and 25-27.
3. The rejection of claims 1-12, 15-24 and 29-37 under 35 U.S.C. 103(a) as being unpatentable over Dunn et al., U.S. Patent Number 4,655,777 is withdrawn due to applicant's argument.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 15-16, 19-20, 29-30 and 34-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Scheicher, U.S. Patent Number 4,278,630.

Scheicher discloses implants from ceramic substances having a porous surface, which stimulates ingrowth of bone tissue (see abstract). Additionally, the reference discloses that the ceramic substance can be in the form of fibers wherein the fibers have lengths approximately 0.1-60mm as per instant claims 15 and 16. Also, Scheicher discloses that the ceramic body has pores that take up about 10% to about 90% volume (see column 2, lines 30-63). Column 4, lines 16-55 of the reference discloses that whiskers are suitable fibers for the ceramic substances and have a diameter of about 10 $\mu$ m – 100  $\mu$ m as per instant claims 19-20. Column 1, lines 43-59 of the

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reference discloses that the ceramic substances (fibers) are sintered together. Also, in column 1 of the reference, it is disclosed that the fibers sintered together form a mold as per instant claim 36.

6. Claims 2-5, 17-18, 23, 31, 33 and 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not provide for the recited sintered scaffold material, further including glass fibers wherein the glass fibers are sintered for about 1 minute to about 120 minutes and the scaffold has a porosity of between about 5 volume % and about 95 volume %. Additionally, the prior art does not provide for the recited sintered scaffold material, further including a carrier for bioactive agents and the scaffold is attached to a biocompatible polymeric film.

7. Claims 6-12, 21-22, 24-28 and 32 are allowed. The prior art does not provide for a sintered glass scaffold comprising glass fibers sintered together to form the scaffold, wherein the fibers have a coating of one or more biocompatible polymers or copolymers. Also, the prior art does not provide for a sintered scaffold material comprising glass or ceramic fibers, wherein the scaffold material has porosity of between about 50 volume % and about 90 volume %, wherein the scaffold is a carrier for at least one bioactive agent. The prior art does not provide for a sintered glass comprising glass fibers, wherein the wherein the glass fibers have a coating of one or more biocompatible polymers or copolymers, wherein the scaffold is a carrier for at least one bioactive agent. The prior art does not provide for a sintered scaffold material comprising glass or ceramic fibers, wherein the glass fibers comprise bioactive glass having a composition of about 53 to about 60 wt% SiO<sub>2</sub>, about 0 to about 34 wt% Na<sub>2</sub>O, about 1 to about 20 wt% K<sub>2</sub>O,

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about 0 to about 5 wt% MgO, about 5 to about 25 wt% CaO, about 0 to about 4 wt% B<sub>2</sub>O<sub>3</sub>, about 0.5 to about 6 wt% P<sub>2</sub>O<sub>5</sub>, wherein Na<sub>2</sub>O in combination with K<sub>2</sub>O is present in an amount between about 16 to about 35 wt%; K<sub>2</sub>O in combination with MgO is present in an amount between 5 to about 20 wt% and MgO in combination with CaO is present in an amount between 10 to about 25 wt%.

***Response to Arguments***

8. Applicant's arguments with respect to claims 1-12, 15-24 and 29-27 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Camie S. Thompson whose telephone number is (571) 272-1530. The examiner can normally be reached on Monday through Friday from 7:30 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena L Dye, can be reached at (571) 272-3186. The fax phone number for the Group is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
RENA DYE  
SUPERVISORY PATENT EXAMINER  
A.O. 1774 9/21/05